

A meeting of the New Hampshire Water Well Board was held on June 5, 2008 at 9:00 AM, in rooms 112 & 113, 29 Hazen Drive, Concord NH, 03302.

Present were: Bart Cushing, Chairman

Rene Pelletier, Secretary

Board Members: Jeffrey Tasker, David Wunsch, Peter Caswell and Thomas Garside

NHDES Staff: Richard Schofield and Allyson Gourley

Chairman Cushing brought the meeting to order at 9:01 AM.

Approval of Minutes

4/18/08 Meeting: Upon motion by Mr. Tasker and seconded by Mr. Caswell, the Board unanimously voted to accept the Minutes of the meeting.

4/30/08 Meeting: Upon motion by Mr. Caswell and seconded by Mr. Tasker, the Board unanimously voted to accept the Minutes of the meeting.

Old Business

NSF/ ANSI

Mr. Schofield presented a follow-up on this matter. He told the Board he had contacted the National Groundwater Association ("NGWA") in an effort to determine how many states require ANSI/ NSF standard 61 with regard to the private water well industry. To illustrate this issue, Mr. Schofield provided the Board members with a schematic showing all the brass fitting components from the well to the distribution system. The schematic clearly shows the point at which International Plumbing Code jurisdiction ends.

Mr. Kevin McCray, Executive Director for the NGWA, responded to Mr. Schofield's question and provided results of a survey that was conducted several years ago. The survey asked states if they have adopted standard 60 or 61 for household water well components. Twenty states responded; eleven "Yes", nine "No", but Mr. Schofield told the Board that NH should have responded "No". He explained that the results of the survey were questionable depending on who was answering the question: if the respondent worked for the NH drinking water program, the answer would be "Yes", and someone from the NH Plumbers Licensing Board also would have replied "Yes".

Mr. Schofield noted an interesting issue raised by Mr. McCray: How many states require certification and listing by NSF International, certification and listing by a third party, or just require that components meet NSF standards? If the Board decides to adopt ANSI / NSF Standard 61, it would have to determine which set of criteria to implement.

Chairman Cushing talked briefly about choosing the organization to provide certification. He explained that each has its own “specialty”. He also raised the question of cost of certification.

Mr. Schofield told the Board that he intends to contact other states to see what they are doing. Mr. Caswell suggested contacting Canada because they are leading on this issue. He recommended the Canadian Standards Association “CSA”.

Mr. Schofield said that the NGWA has indicated that they are willing to help us. He may ask them to conduct a similar survey again, but revise the survey to be more specific on this question.

Rene Pelletier joined the meeting at 9:24 am.

The Board discussed different factors that effect the leaching of lead into the water system such as pH, temperature and flow. How the alloy is manufactured was pointed-out as a significant factor.

Chairman Cushing stated that an unintended consequence of reducing the lead content is that it may result in components that are brittle. Mr. Garside asked the Board what they knew about stainless components. Chairman Cushing said he has heard of bad experiences where just after one year, fittings were not able to be removed.

Chairman Cushing asked the Board if they would like him to ask a representative from one of the companies that supplies stainless steel components to speak on their products. The Board responded positively.

Rules

Mr. Schofield presented an update on the proposed rules. He told the Board that the rules are on the JLCAR agenda for June 6, 2008. Mr. Schofield explained that we are asking for a conditional approval because the rules will expire on June 13.

Mr. Schofield directed the Board’s attention to the comments and Fiscal Impact Statement from the Office of Legislative Services (“OLS”). He asked the Membership to select the draft rules that were marked “Proposed Amendments based on OLS Comments”. Mr. Schofield told the Board that he was only going to review the most significant changes.

Review of the proposed changes to Chapter 200:

- page 7 – We 205.05 (language added)
- page 14 – We 206.27 (5) (added)
- page 16 – We 206.33 (e) (change)

Review of the proposed changes to Chapter 300 – 1000

- page 7 – We 402.01 (change)
- page 13 – We 602.06 (g – k) (editorial)
- page 22 – We 604.02 (a) (editorial – language removed)
- page 31 – We 802.04 (f) - Chairman Cushing commented that obtaining the Tax Map and Lot # for “state property” is proving to be a challenge. He said that state-owned property is often referred to as “lot of record”.
- Page 32 – We 1002.01 (OLS expressed concern with the term “validated”)

Mr. Schofield addressed a concern raised by Chairman Cushing at the last meeting regarding the effective date of the new rules. He recommended that the Board vote against adopting the rules immediately following approval. He suggested that the Board send an adoption letter to the OLS requesting that the new rules become effective on June 13, 2008; this coincides with the time they are due to expire. At this point, Mr. Schofield introduced Holly Green. He explained that Holly is the Rules Coordinator for the Bureau and she has been working closely with him on this process. Ms. Green explained that we are asking for a “conditional approval” at this point since there are still a few changes to be made. Once OLS agrees to the changes, the final adoption process can take place.

The Board agreed to the course of action as recommended by Ms. Green and Mr. Schofield.

Complaints**Sabin Guertin / Village Pump and Irrigation**

Mr. Schofield provided the Board with a summary of the complaint. He explained that Mr. Guertin hired Village Pump & Irrigation to replace his well pump. Since he was away at the time, he asked his sister to take care of any of the arrangements associated with the pump replacement. Mr. Holland, the owner of the company, gave Mr. Guertin’s sister a quote of \$800 to replace the pump. After the work was completed, she was told the cost of the work was \$1206. Mr. Guertin has requested an itemized bill, but to date has not received one.

Mr. Schofield told the Board that Mr. Guertin believes that he was overcharged for the work and that Mr. Holland acted in an unethical manner. He cited We 501.02 (b) which states that “*a water well contractor or pump installer shall not engage in false ... or misleading ... representations...*”

Mr. Schofield had inspected the work done by Village Pump & Irrigation and presented photographs he had taken for the Board’s review. Mr. Schofield described what he had observed as a fairly standard jet-pump installation, except that the existing electrical cable “Romex” had not been upgraded to current code and was dangling from the floor joists. He stated that this is a violation of We 702.04(c) and We 702.04 (d)(1). The wiring should have been put in conduit.

Mr. Garside said that he felt the charge issue was a matter for small claims court; although there are violations involving the installation.

Mr. Wunsch asked if there have been other complaints against Mr. Holland. Mr. Schofield replied "No".

Mr. Schofield informed the Board that he has not received the certified mail "green card" back to prove that Mr. Holland has received the letter informing him of the meeting.

Chairman Cushing asked Mr. Guertin to take the chair and state his name and address. Chairman Cushing asked Mr. Guertin if he has requested an itemized bill from Mr. Holland. Mr. Guertin told the Board that he had called Mr. Holland's office requesting an itemized receipt, but did not receive a response. He said 10 days later he sent a registered letter requesting an itemized receipt. He said that he has received the certified letter "green card" back, showing it was received, but again, no response.

Mr. Guertin told the Board that he did get a prompt response from Mr. Holland on another issue. Shortly after filing the complaint against Mr. Holland, Mr. Guertin experienced a problem with his circuit breaker activating whenever his well pump turned on. He said Mr. Holland returned his call with regard to that matter. Mr. Guertin later determined the problem to be with his circuit breaker and not the pump.

Chairman Cushing asked Mr. Guertin if the pump assembly had been pulled out of the well. Mr. Guertin replied that he didn't know because he wasn't there at the time.

Mr. Pelletier stated that the Board is currently in a position where it cannot take action because Mr. Holland has not had the statutory time frame to respond. Following the comment by Mr. Pelletier, Mr. Schofield was able to verify that Mr. Holland had received a previous letter sent certified mail, informing him of the date of the meeting.

Mr. Pelletier again stated that he felt the matter would need to be tabled until the statutory 30-day time period from the date that the formal complaint letter had been sent.

Chairman Cushing asked Mr. Guertin if he would be interested in obtaining the manufacturers list price for the pump and providing that information to the Board.

Mr. Caswell asked Mr. Guertin if his well head is above ground. Mr. Guertin said that his well head is below ground and at the time the pump was installed it was under approximately five feet of snow.

Break at 10:15 pm

Meeting reconvened at 10:34 pm

Licensing

New Applicants

The first application for consideration was requested by Chris Parker for a Pump Installers license. Chairman Cushing provided a brief background for the record. Mr. Parker's application was reviewed at the last WWB meeting. There were concerns regarding one of the individuals that Mr. Parker had used as a reference, and the Board decided to seek a legal determination from the Attorney Generals Office ("AGO") on the matter. All of the Board members had received a copy of the response letter from the AGO.

Mr. Pelletier made a motion that the Board go into executive session to consider legal counsel's opinion. Motion seconded by Mr. Tasker.

The Board voted unanimously to go into executive session.

Recess at 10:40 am for executive session

Reconvene at 10:45 am

Chairman Cushing advised the Board that the review of Mr. Parker's application would continue without consideration of his references. He went on to outline Mr. Parker's work experience, as presented on his application. The Board discussed the fact that it appears Mr. Parker held two full-time positions at the same time. Also discussed was whether Mr. Parker has had experience with a licensed Pump Installer. Mr. Garside suggested that the Board ask Mr. Parker to check his application to see if he may have incorrectly stated his work experience timeframes. Mr. Pelletier said the Board should determine whether Gap Mountain had someone who was licensed as a Pump Installer at the time Mr. Parker was employed with them. Chairman Cushing added that he would like to see copies of all of the applications that Mr. Parker has submitted to the WWB.

Mr. Schofield urged the Board that they need to act on Mr. Parker's application. He referred to RSA 541-A:29 which requires that an application be acted on within 120 days. He pointed out that the time limit would expire before the next meeting.

Mr. Pelletier made a motion to deny Mr. Parkers application based on the issues discussed. Motion seconded by Mr. Caswell.

The Board voted unanimously to deny Mr. Parkers application.

The next application for consideration was requested by Jeremy Bignall of Columbia, Illinois, for a Water Well Contractor License. The specific license that Mr. Bignall has requested is for monitoring wells. Mr. Bignall is employed by Philip Services Corporation.

The Board engaged in a brief discussion regarding the similarities and differences in the geology between New Hampshire and Illinois.

The Board voted unanimously to allow Mr. Bignall to sit for the exam.

Renewals / Newsletter

Mr. Schofield informed the Board that license renewal forms were mailed out two weeks ago. He noted that the Board has received several inquiries for continuing education classes. He was aware of three training classes which were held on May 27, 28, and 29, but presently there were not any scheduled for the month of June. When he receives inquiries about continuing education he is recommending that they call their suppliers.

Mr. Schofield told the Board that he is thinking about the newsletter that will be sent out in July with the license renewals. Topics to be covered in the newsletter will include: the new rules, reporting (HB 459) and grouting requirements for new public water system wells. He asked the Board members if they had ideas for additional topics. Dave Wunsch suggested that the issue of obtaining Tax Map and Lot # for state owned lands be discussed. Chairman Cushing suggested including photographs of people working in the water well industry.

New Business

New Webpage Format

Mr. Schofield presented updates to the Board. He explained that every program's website is going to look exactly the same. The intent is to make it easier for the public to navigate. The Board members were provided a hand-out which contained a list showing the 17 headings which all the programs data must be "pigeon-holed" under.

The Board members made suggestions that were helpful to Mr. Schofield in deciding where certain information should be located.

There was considerable discussion about whether or not the complaint registry should be available on the Water Well website. Most of the Board members expressed that they were in favor of putting this information on the website.

Mr. Pelletier asked why license revocations were not posted on the website. Mr. Schofield explained that currently the license database is out dated and will require some improvements before that information could be posted by an automated link to the database.

Chairman Cushing recommended that the Board member's names, addresses and phone numbers be listed.

Setbacks to Property Lines

Mr. Schofield told the Board that Mr. Tasker had requested he put this item on the agenda. The issue is what should a well contractor do when his or her client requests that a well be closer than 75 feet from the property line; is that acceptable?

The Board members were provided with copies of RSA 485-A:30-b; copies of the Subsurface Systems Bureau administrative rules Env-Wq 1008.06-1008.12; and the Water Well Board administrative rule We 602.05. Mr. Schofield said that in all cases, exceptions to the 75 foot setback to property lines were limited to certain conditions of the lot, such as the lot being too small, or inaccessibility for the drilling equipment.

Mr. Schofield commented that concerns about contamination have been minimized by the Board's new rules requiring extra casing and grouting of the well where the well is less than 75 feet from the property line.

Mr. Schofield directed the Board's attention to several areas in statute and in rules where this issue is addressed, and stressed that a well should only be located less than 75 feet from a property line "where site conditions prevent compliance".

There was considerable discussion regarding this matter. Several Board members told of their experiences losing jobs to other companies that were willing to place a well less than 75 feet from a property line. They lamented that no enforcement action had been taken against these companies.

Mr. Schofield said that he wants to review more well locations to determine that they are in accordance with the site plan. Mr. Pelletier added that review and enforcement needs to be improved with regard to this issue. He stressed that "Standard Well Release Forms" are only to be used when there is no alternative site location which meets compliance. Mr. Schofield indicated that in the past, if a release form was filed, the matter was not investigated further. Mr. Pelletier said that from this time on, well release forms need to be investigated to determine that there was no alternative location which met the requirements. Mr. Pelletier suggested that in cases where the well radius is not maintained on lot and the reason is not clear, the water well contractor should be brought before the Board to explain why the well was located in a nonconforming location. If the Board is not satisfied with the answer, that will be the well contractors first strike; the next strike will initiate possible license revocation.

Closed Loop Geothermal Wells

Mr. Schofield told the Board he had received a call from a licensee with questions about closed loop geothermal wells. His first question was whether casing is required for a closed loop geothermal well?

The Board responded that provided the well is grouted as required, the casing can be removed; however the board members said they have seen cases where these wells are not being grouted. Mr. Pelletier suggested that this subject be discussed in the upcoming

newsletter. Chairman Cushing commented that the individuals who are not grouting the wells typically are not licensed well installers, but blasters.

Mr. Schofield informed the Board that the second question asked by his caller was if closed loop geothermal wells were required to meet all of the well location requirements of We 602.05, as indicated in the Board's proposed rules. If so; then does a closed loop geothermal well that cannot meet the 75 foot setback requirements need to have a minimum of 40 feet of casing?

The Board did not believe that closed loop geothermal wells which did not meet the 75 foot setback should require 40 feet of casing because of the requirement that they be grouted. The Board reviewed We 602.14 and discovered that the present wording of the rule requires closed loop geothermal wells to meet the 75 foot setback to property lines. The Board determined that the reference to We 602.05 for closed loop geothermal wells was an error and needed to be corrected. Mr. Pelletier said he could address this matter when the proposed rules go before JLCAR.

The meeting was adjourned at 12:10 pm.